

ESTTA Tracking number: **ESTTA52983**

Filing date: **11/11/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

<b>Name</b>	Clear!Blue Management, Inc.
<b>Granted to Date of previous extension</b>	11/19/2005
<b>Address</b>	135 North Old Woodward Birmingham, MI 48331 UNITED STATES

<b>Attorney information</b>	Jeffrey P. Thennisch Dobrusin & Thennisch 29 W. Lawrence Street Suite 210 Pontiac, MI 48342 UNITED STATES kpursley@patentco.com
-----------------------------	--

#### Applicant Information

<b>Application No</b>	78500877	<b>Publication date</b>	09/20/2005
<b>Opposition Filing Date</b>	11/11/2005	<b>Opposition Period Ends</b>	11/19/2005
<b>Applicant</b>	Desert Growth Partners, L.L.C. #1500 5151 E. Broadway Tucson, AZ 85711		

	UNITED STATES
--	---------------

**Goods/Services Affected by Opposition**

<p>Class 036. First Use: 20040312First Use In Commerce: 20040312  All goods and sevices in the class are opposed, namely: Venture lending and capital services, namely, providing financial solutions to emerging companies</p>
---

<b>Attachments</b>	Doc002.pdf ( 4 pages )
--------------------	------------------------

<b>Signature</b>	/jeffrey p. thennisch/
<b>Name</b>	Jeffrey P. Thennisch
<b>Date</b>	11/11/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Clear!Blue Holdings, LLC  
a Michigan limited liability company,

Opposer

-v-

Desert Growth Partners, LLC  
an Arizona limited liability company,

Applicant

)  
)  
) Opposition No. \_\_\_\_\_

)  
) Serial No. 78/500,877

)  
) Mark: CLEAR BLUE VENTURES

)  
) Published: September 20, 2005  
)  
)  
)

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

---

**NOTICE OF OPPOSITION**

---

Clear!Blue Holdings, LLC, is a Michigan limited liability company having a principal place of business located at 135 North Old Woodward, Birmingham, MI 48009 (hereinafter "Opposer"), and hereby believes that it will be damaged by the registration of CLEAR BLUE VENTURES (the "Proposed Mark"), pursuant to the application of Desert Growth Partners, LLC (hereinafter "Applicant") filed on October 15, 2004 under Section 1(a) of the Lanham Act and published in the *Official Gazette* on September 20, 2005 (hereinafter the "Application"), and hereby opposes said Application. Opposer submits that it previously filed, and was granted a thirty (30) day extension of time to oppose the Proposed Mark.

AS GROUNDS OF OPPOSITION, IT IS ALLEGED THAT:

1. Opposer, since prior to the effective filing date of the subject Application under Section 1(a) of the Act, has provided services to the public throughout the United States under its

distinctive mark CLEAR!BLUE. Through its continuous use of the CLEAR!BLUE mark in interstate commerce since prior to the effective filing date of the subject Application under Section 1(a) of the Act, the Applicant's cited date of first use, and by virtue of the tremendous success of the services provided under the CLEAR!BLUE mark, Opposer has developed extensive goodwill in the CLEAR!BLUE mark throughout the United States.

2. When used in connection with the sale, promotion and offering of services in the field of business communications and corporate functions, the CLEAR!BLUE mark is, and has come to be, identified in the minds of the public with Opposer. The CLEAR!BLUE mark therefore serves to distinguish Opposer as the source of services provided under the mark, and serves to indicate the high quality and reputation of those services provided by Opposer under the distinctive CLEAR!BLUE mark since a date prior to the effective filing date of the subject Application under Section 1(a) of the Act, and the date of first use cited by the Applicant.

3. Opposer has filed for Trademark Registration of the CLEAR!BLUE mark in the U.S. Patent & Trademark Office on July 11, 2001 under Section 1(a) of the Act, receiving at least Serial No. 76/282,838 and Registration No. 3,008,129 (hereinafter "the CLEAR!BLUE marks), and citing a date of first use at least as early as August 2, 2000, a date prior to the effective filing date of the subject Application under Section 1(a) of the Act.

4. Opposer is the owner of all right, title, and interest to the CLEAR!BLUE marks.

5. Opposer has also developed substantial common law trademark and service mark rights as well as rights analogous to trademark and service mark usage in the CLEAR!BLUE mark since long prior to Applicant's filing date under Section 1(a) of the Lanham Act.

6. Upon information and belief, Applicant seeks to register CLEAR BLUE VENTURES for use in connection with services that are identical or closely related to the goods and services that Opposer uses and provides under the CLEAR!BLUE marks.

**Opposition Under Section 2(d) Of The Lanham Act**

7. Upon information and belief, the Proposed Mark is nearly identical to Opposer's CLEAR!BLUE marks in appearance, sound, meaning, and commercial impression. Moreover, Applicant seeks to register the Proposed Mark for use in connection with services that are identical or closely related to the services with which Opposer has used the CLEAR!BLUE marks since prior to the filing date of Applicant under Section 1(a). Due to the nearly identical nature of the published mark CLEAR BLUE VENTURES when compared to the Opposer's prior CLEAR!BLUE marks used in interstate commerce, and the similarity of the goods and/or services with which the marks are used or are intended to be used by Applicant, Applicant's proposed use of CLEAR BLUE VENTURES mark would create a strong likelihood of confusion, mistake, or deception in the minds of the relevant public as to the origin, source, or sponsorship of Applicant's goods within the meaning of Section 2(d) of the Lanham Act. Opposer would therefore be damaged by the issuance of any registration based on the Application and hereby opposes same.

8. Upon information and belief, if Applicant were permitted to use and register the Proposed Mark for the services specified in the Application, confusion would result by reason of the similarity of the Proposed Mark to Opposer's CLEAR!BLUE marks and the similarity between Applicant's services and Opposer's services. Customers familiar with the services with which Opposer uses the CLEAR!BLUE mark are likely to believe that Applicant's services originate from or are sponsored, authorized, or otherwise approved by Opposer. Defects, faults,

or failures associated with Applicant's services are likely to reflect negatively upon, tarnish, and seriously injure the reputation which Opposer has long established for goods and services under its prior CLEAR!BLUE mark. This confusion is likely to result in loss of sales to and public confidence in Opposer and damage to its reputation.

9. For the foregoing reasons, the registration sought by the Applicant is contrary to the provisions of Section 2(d) of the Lanham Act and Opposer believes it would be damaged thereby. For purposes of this claim under Section 2(d), Opposer expressly relies upon and asserts both its rights in the CLEAR!BLUE marks, and its common law and analogous use rights in the CLEAR!BLUE marks which it has used in commerce since a date prior to the date of Applicant's application filed under Section 1(a) of the Lanham Act.

WHEREFORE, Opposer respectfully requests that registration of the mark shown in Application Serial No. 78/500,877 be refused and this Opposition be sustained.

This Notice of Opposition is submitted with the requisite \$300 filing fee corresponding to the one (1) class of goods in the above-identified application submitted in the check herewith.

Respectfully submitted,



---

Jeffrey P. Thennisch  
Dobrusin & Thennisch PC  
29 W. Lawrence Street, Suite 210  
Pontiac, MI 48342  
Telephone: (248) 292-2920

ATTORNEY FOR OPPOSER

Dated: November 11, 2005